

Amendments to the Claims:

34. (currently amended) A surgical apparatus for providing access to a body cavity of a patient through an incision, the apparatus comprising:

a first member having a portion configured for attachment to the patient and a first coupling disposed proximate the portion, the first member defining a passageway for accessing the body cavity through the incision, wherein the passageway has a diameter sufficient to pass a surgeon's hand; ~~and~~

a second member including a second coupling configured for releasable attachment to the first coupling and a flexible portion configured to extend into the passageway and surround a surgeon's arm passing through the passageway, said flexible portion comprises a sealable opening configured to receive and seal around the surgeon's arm wherein the sealable opening is configured to be seal closed in the absence of the surgeon's arm; and

wherein the portion of the first member configured for attachment to the patient is dimensioned to be inserted into the incision, and wherein the first member has axially opposite proximal and distal ends, wherein the first coupling is at the distal end and the portion for attachment to the patient is at the proximal end and comprises an annular rim that is insertable through the incision to underlie the tissue with the first member projecting through the incision to secure and seal the first member to body tissue surrounding the incision.

Please cancel claims 35, 37, 38 and 40-53 without prejudice.

REMARKS/ARGUMENTS

Claim 34 has been amended to include the limitations of claims 48 and 49. Support for this can be found in the specification as originally filed. Accordingly, no new matter is involved. Claims 35, 37, 38 and 40-53 have been cancelled herein. Accordingly, no new matter is involved.

In the previous office action, claims 35, 37, 38 and 40-53 were rejected under the judicially created doctrine of obviousness-type double patenting. In order to expedite

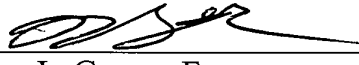
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prosecution of this case those claims have been cancelled herein. Accordingly, it is respectfully requested that the Examiner withdraw the rejections to these claims.

In addition, the Examiner objected to claim 49 as being dependent upon a rejected base claim. However, the Examiner did state that this claim would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 34 now represents claim 49 as being rewritten in independent form including all of the limitations of the base claim (old claim 34) and any intervening claims (claim 48). Therefore, Applicants respectfully request that the Examiner withdraw the rejection to claim 34 and the objection to claim 49.

In view of the above amendments, Applicants submit the above referenced application is now in condition for allowance. Therefore, Applicants respectfully request that the Examiner reexamine and favorably reconsider Applicants claim in the form of a Notice of Allowability.

Respectfully submitted,

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